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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: MPA - 175077

PRELIMINARY RECITALS

Pursuant to a petition filed on June 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA). The hearing was held on July 20, 2016, by telephone.

The issue for determination is whether the Department correctly modified the petitioner's prior authorization request for speech therapy for eight sessions over eight weeks to four sessions over eight weeks.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED], MA CCC-SLP
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Winnebago County. The petitioner is an eight year old. When he was 2 ½ years old he was in a car accident. He was normal immediately after the car accident. However, a month after the accident he had an increase in headaches, behavioral changes, bed wetting, decreased obedience, and decreased appetite. An MRI was done, which was normal. When he was three years old and nine months he had a seizure. Both his MRI and EEG were normal. Prior the accident, the petitioner was developing normally in all areas. The petitioner's mother thought that he regressed after the accident.
2. In 2014 the petitioner had delays in speech intelligibility and expressive communication.
3. He received speech therapy services through the [REDACTED] until December 2013 when the petitioner's mother made the decision to home school her son.
4. Since December 2014 the petitioner has had four prior authorization requests for speech therapy services approved for a total of 44 sessions.
5. On May 5, 2016 the petitioner's provider requested eight speech therapy sessions over eight weeks.
6. On May 20, 2016 the Department sent the petitioner a written notice stating that they modified the requested eight sessions over eight weeks to four sessions over eight weeks.
7. On June 20, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Medical assistance covers speech therapy, but recipients must obtain prior authorization after the first 35 visits. Wis. Admin. Code § DHS 107.18(2)(b). When determining whether a service is necessary, the Division must review, among other things, the medical necessity, appropriateness, and cost of the service; the extent to which less expensive alternative services are available; and whether the service is an effective and appropriate use of available services. Wis. Admin. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7. "Medically necessary" means a medical assistance service under ch. DHS 107 that is "[r]equired to prevent, identify or treat a recipient's illness, injury or disability;" and meets these standards:

1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;

7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the **most appropriate supply or level of service that can safely and effectively be provided to the recipient.**

Wis. Admin. Code, § DHS 101.03(96m)

The petitioner seeks eight weeks of weekly speech and language sessions. Since December 2014 the Department has approved 44 speech and language therapy sessions in four separate prior authorization requests. The Department modified this request allowing 4 speech therapy sessions over the eight week period. The Department reasoned that the petitioner has made gains in his phonological awareness skills, and that given the petitioner's current skill level and therapy goals, there can be a carryover home therapy reducing the need for weekly speech therapy sessions.

The burden of proof is on the petitioner by a preponderance of the evidence. The petitioner's mother testified that although the petitioner has improved, he still is disabled with regard to speech. She is concerned that his abilities will regress. She is willing to try sessions every other week, but does want speech therapy to end as the petitioner needs these services. The petitioner's speech therapist did not appear for the hearing.

I understand the petitioner's mother's concern that her son may regress with speech therapy every other week rather than every week. That said, I agree with the Department that based on the information provided by the provider and the petitioner's mother, it seems that with a home carryover program, speech therapy every other week is sufficient to meet the petitioner's need. If the petitioner regresses, and more speech therapy becomes medically necessary, the petitioner's provider may submit a new prior authorization request for more frequent speech therapy sessions. The new request would be reviewed by the Department, and either approved, modified, or denied. In the event the request was modified or denied, the petitioner's mother would have new appeal rights.

CONCLUSIONS OF LAW

The Department correctly modified the petitioner's prior authorization request for speech therapy for eight sessions over eight weeks to four sessions over eight weeks.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st 1st day of August, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 1, 2016.

Division of Health Care Access and Accountability